



Chapter 2: Planning, Programming, Budgeting and Execution

Section 2.5 - Administrative Control of Funds

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Introduction

This section of the Financial Management Policy Manual establishes U.S. Immigration and Customs Enforcement (ICE) system of administrative control of funds required by the Antideficiency Act and the Office of Management and Budget (OMB) Circular No. A-11, Section 145, *Requirements for Reporting Antideficiency Act Violations*, for additional guidance.

The U.S. Immigration and Customs Enforcement (ICE) has established a system of administrative controls over its budgetary resources, including appropriated and fee sources. This system of controls is designed to ensure that appropriated funds are legally available for a given obligation or expenditure. Whether appropriated funds are legally available depends on three things:

- a. The *purpose* of the obligation or expenditure must be authorized.
- b. The obligation must occur within the *time* limits applicable to the appropriation.
- c. The obligation and expenditure must be within the *amounts* Congress has established.

This section establishes a proper fund control policy to:

- a. Ensure ICE programs are executed, and funds expended, in accordance with authorizing and appropriations acts.
- b. Restrict both obligations and expenditures, from each ICE program's appropriation or funds account, to the lower of the amount apportioned by OMB or the amount available for obligation or expenditure in the appropriation or fund account.
- c. Enable ICE leadership to identify the person responsible for any obligation or expenditure exceeding the amount available in the appropriation or fund account, the OMB apportionment or reapportionment, the allotment or suballotments made by the agency, any statutory limitations, and any other administrative subdivision of funds made by the agency.
- d. Require Administrations and Program Offices to provide procedures for dealing with violations of the Antideficiency Act as well as violations of other administrative subdivision of funds that are not violations of the Antideficiency Act, per se.

Responsibilities

The **ICE Chief Financial Officer (CFO)** establishes, oversees and updates all financial management activities including, but not limited to, policy development, budget formulation, asset and facilities management and internal controls consistent with the mission and strategic goals of the Department of Homeland Security. ICE CFO is responsible for all aspects of the administrative control of funds within ICE. The ICE CFO directs, publishes policy, and provides guidance on and oversight of the financial management process in accordance with Federal law and OMB Circulars. The ICE CFO will:

- a. Establish agency policies on administrative control of funds and ADA reporting.
- b. Notify DHS CFO of any potential ADA violations.

The **ICE Deputy Chief Financial Officer (DCFO)** oversees financial management policy and is responsible for reporting ICE program office's information at the consolidated level.

The **Office of Assurance and Compliance (OAC)** is responsible for the Internal Control Assessment. OAC, at the direction of DHS Risk Management & Assurance (RM&A) and the ICE CFO, determines whether internal controls exist, are correctly implemented, and ensures that internal control processes are working effectively to mitigate risks. Internal control assessments are of two broad types:

- a. A specific, detailed examination of internal controls in a prescribed review format especially designed for that purpose, or
- b. Using a variety of processes that provide adequate information regarding the effectiveness of control techniques.

OAC will develop and communicate a yearly internal control plan for financial reporting and IT controls, which may include conducting necessary walkthroughs, updating process documentation, developing test plans, and reporting results

The **ICE Budget Director [Office of Budget and Program Performance (OBPP)]**, directs and manages the ICE Budget Formulation and Execution processes. This includes the following:

- a. Approves ICE Program Offices apportionment requests to be sent to OMB for apportionment and reappropriation of appropriated and other funds available to ICE Program Offices.
- b. Uses OMB's apportionment application (MAX) to help prepare apportionment requests, send requests to OMB, and create reports against previously approved apportionments.

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- c. Distributes and withdraws obligating authority for each of the Program Offices within 10 days of receiving an apportionment from OMB. Under a Continuing Resolution (CR), ICE will issue disbursement authority to the Program Offices based on the length of the CR.
- d. Provides guidance to ICE Program Offices on Budget Formulation and Execution.
- e. Develops annual funding restrictions and distributes the guidance agency-wide.
- f. Provides service, advice, and assistance to ICE Program Offices on the management and execution of their budgetary resources.
- g. Provides guidance on formulating adequate budget estimates in line with ICE mission and priorities.
- h. Advises executive staff on budget and finance issues.
- i. Recommends actions that may be necessary to ensure that ICE does not exceed its available budgetary resources.
- j. Monitors the ICE Budget Execution process which starts with the apportionments process.
- k. Coordinate the review and reporting process for identified ADA violations.

The ICE program office's **Senior Financial Leadership** is responsible for the overall financial management of the ICE Program Offices. The Senior Financial Leadership:

- a. In consultation with legal counsel, ensures that the overall administration and processing of violations within the ICE Program Offices, as well as the program's internal control of appropriations and funds, are evaluated quarterly.
- b. Provides to OBPP Leadership the status of resources and other financial management issues.
- c. Identifies potential ADA violations within ICE programs and notifies ICE OBPP Budget Director. At a minimum, the Senior Financial Leadership must:
 - 1) Cease all transactions related to the lowest level of budgetary resources for which the ADA violation is suspected.
 - 2) Notify the ICE OBPP Budget Director as first line of defense of the potential ADA violation.
 - 2) Identify the cause(s).

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- 3) Take corrective action.
 - 4) Determine responsibility and culpability.
 - 5) Ensure appropriate disciplinary action is taken against those persons found to be responsible and report such actions to the ICE CFO.
- d. Ensure that preliminary reports of investigations and preliminary reports of violations under reference are:
- 1) Prepared in accordance with policies and procedures prescribed by the ICE CFO in this section and guidance provided by OMB and the Office of Assurance and Compliance (OAC) team.
 - 2) Reviewed and approved by the ICE CFO.
- e. Implement appropriate internal controls to prevent recurrence of the same type of ADA violation.
- f. Establishes and maintains accounting systems and internal controls in accordance with departmental policies and procedures and OMB Circular A-123, Appendix D, "Compliance with the Federal Financial Management Improvement Act".
- g. Monitors allotments and sub-allotments.

Policy

1. Antideficiency Act (ADA)

Appropriations, apportionments, and allotments to include sub-allotments are subject to the ADA. The ADA is the primary foundation for ICE's system of administrative control of funds to prevent it from overspending its appropriations during the year. It requires OMB, via delegation from the President, to apportion appropriated funds and other budgetary resources for all agencies (31 U.S.C. §§ 1512). It also requires a system of administrative controls within each agency (31 U.S.C. §§ 1513-1514 for the administrative office established) and prohibits Federal employees from the following:

- a. Making or authorizing an expenditure from, or creating or authorizing an obligation under, any appropriation or fund in excess of amounts available in law (31 U.S.C. § 134 (a)(1)(A), 31 U.S.C. § 1517(a), and Section 145.2 and Appendix H of OMB Circular A-11).
- b. Involve the government in contracts or obligations for payment of funds prior to an appropriation unless specifically authorized by law.

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- c. Entering into contracts that exceed each ICE Program's allotments for the year.
- d. Make or authorize an expenditure or obligation or involve the government in a contract for payment of funds required to be sequestered.
- e. Accept voluntary services or employ personal services for amounts exceeding those authorized by law except in the case of emergencies involving the safety of human life or protection of property, not including ongoing regular functions of government.
- f. Incur any obligation or make any expenditure in excess of an apportionment or reapportionment, or in excess of othersubdivisions established pursuant to 31 U.S.C. §§ 1513-1514.
- g. Involving the Federal government in any obligations to pay money before funds have been appropriated for that purpose, unless otherwise allowed by law (31 U.S.C. § 134 (a)(1)(B))

1-1. ADA Violations

The following actions are ADA violations and must be reported to the President, through the Director of OMB, the President of the Senate, the Speaker of the House of Representatives, and the Comptroller General, in accordance with OMB Circular A-11, Section 145, *Requirements for reporting Antideficiency Act* violations:

- a. Over-obligation or over-expenditure of an appropriation or fund occurs when a federal employee of the United States makes or authorizes an expenditure or obligation against an appropriation or fund in excess of the amount available in the account.
- b. Creating a contract or obligation in advance of an appropriation occurs when a Federal employee of the United States involves the Government in a contract or other obligation for payment for any purpose in advance of appropriations made for such purpose, unless such contract or obligation is authorized by law. If authorized by law, but not yet financed by an appropriation, the budget authority recorded to cover such transactions is known as contract authority. If the contract authority is provided in anticipation of receipts, then obligations incurred against such contract authority cannot be liquidated unless either the receipts are collected and credited to the account or an appropriation has been enacted.
- c. Acceptance of voluntary service occurs when a Federal employee of the United States accepts voluntary service for the United States or employs personal services in excess of that authorized by law, except in cases:

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- 1) Of emergency involving the safety of human life or the protection of property.
 - 2) Of use of student volunteers under an agreement between the Department and the school, as provided by OMB regulations.
 - 3) Permitted specifically by law.
- d. Over-obligation or over-expenditure of an apportionment or reapportionment occurs when a Federal employee of the United States makes or authorizes an expenditure or obligation in excess of an apportionment or reapportionment, including any restrictions within the footnotes of the respective apportionment or reapportionment. This provision also applies to obligations or expenditures in a credit financing account.
- e. Over-obligation or over-expenditure of an allotment or sub-allotment occurs when a Federal employee of the United States makes or authorizes an expenditure or obligation in excess of the amount permitted by the prescribed and approved Program's fund control system.
- f. Over-obligation or over-expenditure of an agency limitation occurs when a Federal employee of the United States makes or authorizes an expenditure or obligation in excess of the amount permitted under an agency limitation, which results in the over-obligation or over-expenditure of an appropriation, apportionment, allotment or sub-allotment.
- g. Over-obligation or over-expenditure of a credit limitation occurs when a Federal employee of the United States makes or authorizes an expenditure or obligation exceeding a credit limitation contained in an appropriation or authorization act. This includes-
- 1) Making or authorizing a direct loan obligation or loan guarantee commitment that requires a subsidy cost obligation or expenditure in excess of amounts appropriated and/or apportioned for such purposes in a credit program.
 - 2) Modifying direct loans or loan guarantees resulting in obligations or expenditures in excess of amounts appropriated and apportioned for the cost of modifying direct loans or guarantees in a credit program.
 - 3) Making or authorizing a direct loan obligation or loan guarantee commitment that is in excess of the level specified by law and apportioned by OMB.

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- 4) Making or authorizing an expenditure or obligation in excess of the amount appropriated or apportioned for administrative expenses in a credit program.
- 5) Making or authorizing an expenditure or obligation, including a commitment, against unobligated subsidy balances in a credit program after the period of availability of funds has expired.
- 6) Making or authorizing an expenditure or obligation in excess of available and apportioned resources (including borrowing authority) in a financing account.

For additional information on credit limitations, see OMB Circular A-11, Section 185, *Federal credit*.

- h. Creating obligations against unrealized anticipated budgetary resources occurs when a Federal employee of the United States makes or authorizes an obligation against anticipated budgetary resources before they are realized, even though the resources have been apportioned.
- i. Creating new obligations in expired and closed accounts occurs when a Federal employee of the United States makes or authorizes an expenditure or obligation against an expired or closed account. This includes adjustments that cause obligations in expired or closed accounts to exceed the original appropriation, apportionment, allotment or sub-allotment issued before the account had expired. Funds typically expire on September 30 of the fiscal year in which the period of availability of funds ends. Expired accounts will remain available for legitimate obligation adjustments but not for new obligations. Five years after the expiration of an account, all obligated and unobligated balances must be canceled, and the expired account must be closed. Although no disbursements may be made from cancelled accounts, any legitimate obligations or adjustments chargeable to the canceled account may be paid from another unexpired appropriation available for the same purpose as the canceled account, with certain limitations (See Financial Management Policy Manual (FMPM) and ICE Section 3.8, *Budgetary Accounting*).
- j. Charging the wrong account occurs when the wrong appropriation or Treasury account is charged. The charge may be deliberate (e.g., for purposes of expediency or administrative convenience, with the intent to rectify the situation by transferring the funds to the proper account at a later date) or accidental (e.g., an error when posting a disbursement to prior year as opposed to current year). If the receiving appropriation, apportionment, allotment or sub-allotment is exceeded at any time, a deficiency exists, and the ADA is violated
- k. Signing an agreement that contains indemnification clauses and creates

open-ended liabilities is an ADA violation even when the circumstance requiring the expense is never triggered. These clauses obligate the Department (or any operating unit) to indemnify another party for loss or injury, or otherwise commit the Department or operating unit to an open-ended (and therefore potentially unlimited) liability or expense. Such clauses must be amended as appropriate or negotiated out of the agreement before the agreement may be signed

1-2. Penalties – Administrative (Civil)

Any Federal employee who violates provisions of the Antideficiency Act is subject to two types of sanctions: Administrative and Criminal. ICE employees may be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office. In addition, employees may also be subject to fines, imprisonment, or both.

Administrative Penalties: The law provides that any Federal employee of the United States who violates the prohibitions of (31 U.S.C. § 1341(a), §1342, or §1517(a)) will be subject to appropriate administrative penalties. Administrative discipline may consist of:

- a. A letter of reprimand or censure for the official personnel record of the employee.
- b. A performance rating of unsatisfactory.
- c. Transfer to another position.
- d. Suspension from duty without pay.
- e. Removal from office.

1-3. Penalties - Criminal

Any person who knowingly and willfully violates the Antideficiency Act is subject to a fine of not more than \$5,000, imprisonment for not more than two years, or both (31 U.S.C. § 1350, 1519).

2. Reporting ADA Violations

Any individual who learns of or detects a potential violation of the Antideficiency Act must report it to his or her supervisor within the organization as soon as possible, no more than five business days after the detection. The Supervisor has up to 10 business days from the date of notification to evaluate the circumstances and report the results to ICE program office's Senior Financial Leadership and ICE CFO. *Appendix A* provides an overall view of the ADA reporting timeline.

Once a potential violation is identified, the Programs must cease all transactions related to the lowest level of budgetary resources for which the ADA violation is suspected.

2-1. Notification Report

The ICE program office's Senior Financial Leadership must report all violations or possible violations of the ADA to ICE CFO within 24 hours. Send a screenshot of transaction to Branch Chief with the title "Attention – Possible ADA violation". FMPM requires that the DHS CFO be notified within 20 business days of violation by the ICE CFO. Include the following information and document on the ADA tracking log on SharePoint:

- a. Accounting classification of funds involved.
- b. Name and location of the activity where the alleged violation occurred.
- c. Name and location of the activity issuing the fund authorization.
- d. Amount of fund authorization or limitation that allegedly was exceeded.
- e. Amount and nature of the alleged violation.
- f. Date(s) the alleged violation occurred and the date of discovery.
- g. Means of discovery.
- h. Description of the facts and circumstances of the case.
- i. Anticipated dates for completing the preliminary review and submitting the report.

3. Accounting Support for Fund Control Systems

The administrative control of funds systems is integrated primarily within ICE formal accounting system. Therefore, to the extent possible transactions (budgetary and proprietary) must be recorded in ICE's accounting system accurately, and on the same day as the transaction is executed. ICE maintains systems of accounting and internal controls that provide complete disclosure, financial information needed for management purposes, and effective control over ICE funds. The ICE system of funds control supports internal management and administrative control of funds to preclude ADA violations. This policy enables ICE CFO to identify the person responsible for any obligation or expenditure exceeding the amount available in the appropriation or fund account, apportionment or reapportionment, allowances or sub-allowances, any statutory limitations, and any other administrative subdivision of funds.

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The system of control over funds limits the obligation and expenditure of funds to the amounts currently available for the purposes authorized and spent in accordance with all laws, regulations, OMB direction, and Congressional intent. Legislatively, the ADA, the Bona Fide Needs Rule, and the Purpose Statute are the primary guidance documents that regulate funds control Pursuant to 31 U.S.C. § 3512(b), ICE Program Offices fully support internal management and administrative control of funds and establish and maintain systems of accounting and internal controls that provide complete disclosure, adequate financial information needed for management purposes, and effective control over assets for which ICE is responsible. Programs' Financial systems should meet the following requirements:

- a. Be designed to assist responsible officials in restricting the authorization or incurrence of obligations to the amount for which obligation authority is available.
- b. Provide sufficient information for responsible officials to determine the availability of funds for commitments and obligations by appropriation, allotment, and sub-allotments.
- c. Provide complete, accurate, and timely budgetary and financial information that allows for the preparation and reconciliation of financial reports displaying cumulative obligations and remaining unobligated balances by appropriation, allotment and sub-allotments.
- d. Be designed to record all financial transactions affecting apportionments, reapportionments, allotments, sub-allotments, agency restrictions, financial plans, program operating plans, obligations, and expenditures, as well as anticipated, earned, and collected reimbursements.

4. Apportionment Procedures

4-1. Apportionments

An apportionment is a distribution by OMB of amounts available for obligation in appropriations or fund accounts of the Executive Branch, including budgetary reserves established pursuant to law. Apportionments make amounts available on the basis of time periods (usually quarters), programs, projects, activities, objects, or combinations thereof. The amounts apportioned limit the amount and timing of obligations that may be incurred and are subject to the provisions of the ADA under 31 U.S.C. §§ 1511-1519. The apportionment process is intended to:

- a. Prevent the obligation of amounts available within an appropriation or fund account in a manner that would require supplemental appropriations.

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- b. Achieve the most effective and economical use of amounts made available for obligation.

ICE Program Offices comply with the apportionment and reapportionment provisions of OMB Circular A-11 through OBPP's Allotment process (see 5. *Allotments and Sub-allotments*), to include maintaining control over budgetary resources and meeting mandated reporting deadlines. In addition, ICE Program Offices follow the current year budget execution guidance issued by the ICE CFO.

Apportionment and reapportionment requests are submitted by the ICE Program Offices to OBPP in accordance with guidance and timeframes provided in OMB Circular A-11. OBPP reviews, approves, and submits apportionment requests to OMB after passage of an appropriations law providing either new budget authority or changes to current budget authority levels. ICE Program Offices do not have the authority to submit apportionment requests directly to OMB unless approved by OBPP.

4-2. Supplemental Appropriation

A supplemental appropriation provides additional budget authority to cover emergencies, such as disaster relief, or other needs deemed too urgent to be postponed until the enactment of the next year's regular appropriations act. This budget authority supplements regular or continuing resolution appropriations already in place. They may be transmitted prior to, with, or subsequent to transmittal of the succeeding annual budget document.

ICE Program Offices follow guidance provided by the ICE OBPP and the OMB. (See DHS FMPM and ICE FMPM Section 2.4, *Budget Execution*.)

4-3. Reprogramming

A reprogramming notification occurs whenever ICE intends to use resources within an appropriation differently than contemplated by Congress at the time of the appropriation. By law, notification must be made to the Appropriations Committees of the House and Senate for funds that would reduce programs, projects, activities, or personnel by ten percent or more. Notifications are also required for each reprogramming of funds that would increase a program, project, or activity by more than \$5,000,000 or ten percent, whichever is less. The Department must submit these notifications to the Committees on Appropriations at least 15 days in advance of any such reprogramming. ICE Program Offices notify the ICE CFO of all reprogramming requirements and follow guidance provided by OBPP. (See DHS FMPM and ICE FMPM Section 2.4, *Budget Execution*).

4-4. Transfer Authority

Transfer authority is required when resources are moved between appropriations. ICE Program Offices notify the ICE CFO and follow guidance provided by the ICE OBPP for all transfer proposals. (See DHS FMPM and ICE FMPM Section 2.4, *Budget Execution*.)

4-5. Reimbursable Authority

Reimbursable authority is available *only when budgetary resources have been apportioned by OMB*, and once apportioned, only to the extent there is reasonable assurance that resources will be earned and collected. ICE Program Offices do not obligate against reimbursable authority unless:

- a. Valid orders have been received from Federal entities; or
- b. Advance payment has been collected from the public

ICE Program Offices with reimbursable budget authority monitor the status of budgetary resources, earnings, and collections to avoid ADA violations.

4-6. Revolving Funds

A revolving fund may be subject to apportionment or it may be exempt from apportionment, depending on the type of fund. Incurring obligations in excess of apportioned or otherwise available budgetary resources is an ADA violation.

ICE Program Offices may not disburse funds into a negative cash position in anticipation of Federal or non-Federal reimbursements as such a disbursement may violate the ADA.

5. Allotments and Sub-allotments

Allotments are made at the highest practical level within each appropriation or fund. Allotments and sub-allotments are subject to the provisions of the ADA under 31 U.S.C. §§ 1511-1519. The use of allotments is part of ICE's system of administrative control of funds whose purpose is to keep obligations and expenditures from exceeding apportionments.

- a. Allotments delegate the authority to incur obligations and make expenditures under an appropriation from the Under Secretary for Management to ICE OCFO and then re-delegated to the Program Offices. ICE Program Offices must use the Allotment Advice (Form MGT A-1) to control obligations by activities and projects. In the absence of an allotment schedule, the signed apportionment schedule from OMB serves

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as the allotment advice/schedule. Allotments are established in compliance with the following restrictions controls:

- 1) The sum of the allotment amounts issued by OBPP must not exceed the apportionment.
- 2) OBPP issues allotments that are fixed in amount and may be changed only by authorized individuals within OBPP.
- 3) Allotments are consistent with Congressional restrictions contained in appropriation acts or codified regulations.
- 4) Allotments are consistent with program budget levels in accordance with the ICE budget submission to OMB, as reflected in the Appropriations Act passed by the Congress.
- 5) The allotment authority and documents providing funds availability below the allotment level identify, at a minimum, the following:
 - a) Amount available.
 - b) Funding source.
 - c) Time period of availability.
 - d) Authorizing official and title.
 - e) Justification.
- b. Sub-allotments. Sub-allotments enable the ICE Program Offices to better manage the control of funds. Sub-allotments are established in compliance with the following controls:
 - 1) The sum of the amounts ICE Program Offices sub-allot to the lower levels does not exceed the total amount provided in allotments.
 - 2) Sub-allotments are consistent with the Program's budget office-approved budgetary levels and the ICE program office's authorized programs.

6. Treatment of Anticipated Budgetary Resource Already Enacted Into Law

Apportionments will include estimated amounts of "anticipated" budgetary resources that are a result of laws already enacted. This reduces routine reapportionments of such amounts as they actually become available. In

accordance with OMB Circular A-11, Section 121.11, no obligations should be incurred against any anticipated budgetary resources, even if the funds are apportioned and allotted.

Therefore, ICE Program Offices do not obligate against anticipated budgetary resources before they are realized, even if the anticipated budgetary resources have been apportioned (OMB Circular A-11, Section 145.6).

ICE Program Offices may choose not to allot an amount anticipated to increase the total budgetary resources, even though the amount has been apportioned, until the increase occurs. If ICE Program Offices choose this option, they must maintain constant and careful oversight to ensure that these amounts materialize before incurring obligations or expenditures against this type of allotment.

If actual amounts are less than anticipated, the ICE Program Offices shall make appropriate funding adjustments and take other appropriate actions, including requesting a reapportionment. Anticipated budgetary resources are presented on the SF-132, Apportionment and Reapportionment schedule, and reported on the SF-133, Report on Budget Execution and Budgetary Resources.

7. Deficiency Apportionments

Apportionments that anticipate the need for a deficiency appropriation or a supplemental appropriation under 31 U.S.C. § 1515 will be specifically identified on the apportionment request. A deficiency appropriation act provides budget authority to cover obligations incurred in excess of available budget authority.

To qualify as a deficiency apportionment, the request must be required by one or more of the following:

- a. Laws enacted subsequent to the transmittal to Congress of the annual budget for the year that requires an expenditure beyond administrative control.
- b. Emergencies involving human life, the protection of property, or the immediate welfare of individuals.
- c. Specific authorization by law.

When OMB approves a deficiency apportionment and transmits it to Congress, OMB is merely notifying Congress that funds appropriated to date are being obligated at a more rapid rate than previously anticipated. This notification does not guarantee that Congress will approve any part of any associated supplemental requests and does not authorize the use of any amounts not yet provided by Congress.

Procedures and Internal Controls

ICE internal controls include objectives specific to compliance with the Antideficiency Act. ICE Program Offices Enforcement and Removal Operations (ERO), Homeland Security Investigation (HSI), Office of Professional Responsibility (OPR) and Management and Administration (M&A), will establish and maintain internal controls in accordance with OMB A-123, DHS 4300A, and this policy and provide all required information, data calls, and deliverables. ICE Program Offices will develop and implement oversight procedures and internal controls to comply with this policy. These procedures and internal controls must meet the following requirements:

- a. ICE Program Managers have an inherent responsibility to establish and maintain effective internal controls, assess areas of risk, identify and correct weaknesses in those controls, and keep their leadership informed. The regulatory guidance referenced in the introduction codify this inherent responsibility.
- b. ICE Supervisors must ensure that staff is adequately trained and knowledgeable about the current status of funds, including the current year's appropriation, apportionment, allotment, suballotment, allowance, and suballowance.
- c. Approving and certifying officials have training in appropriations law and the budget process, OMB Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control, and budget execution practices that may prevent violations of the Antideficiency Act.
- d. ICE Program Managers and Supervisors are responsible for understanding and applying the OMB standards for internal control in the Federal Government and for complying with the associated internal control evaluations of key controls, conducted by the OAC team.
- e. When notified of a potential violation of the ADA, a supervisor evaluates the circumstances and reports the result to the ICE program office's Senior Financial Leadership and ICE CFO within 10 business days, who in turn will report the information to the DHS CFO within 20 business days.
- f. ICE program office's Senior Financial Leadership will give high priority to promptly correct identified exceptions and to effectively implement the associated internal controls
- g. ICE program office's Senior Financial Leadership will adhere to OBPP funds control guidance and validate specific process flows, narratives, and internal controls to include security controls for their operational areas.

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- h. Once a potential violation of the ADA is identified, the ICE program office's Senior Financial Leadership will cease all transactions related to the lowest level of budgetary resources for which the ADA violation is suspected
- i. When an ICE program office has some evidence that an ADA violation may have occurred, the ICE program office will conduct a preliminary review of the applicable business transaction(s) and accounting records to determine whether a violation exists in accordance with Part 2 of this policy.
- j. If it is determined that a potential ADA violation exists, the ICE program office's Senior Financial Leadership will coordinate with the ICE CFO and DHS CFO information needed for formal investigations.
- k. No ICE activity or program is exempt from the requirements of the FMFIA, OMB Circular A-123, Appendix A, the DHS FAA, NIST SPs, or DHS 4300A.

Authorities and References

Authorities

DHS FMPM 2.5, "Administrative Control of Funds"

2 U.S.C. §§ 682-688, "Congressional Consideration of Proposed Rescissions, Reservations and Deferrals of Budget Authority."

31 U.S.C. §§ 1101-1119, "The Budget and Fiscal, Budget, and Program Information."

31 U.S.C. §§ 1341-1354, "Limitations, Exceptions, and Penalties."

31 U.S.C. §§ 1501-1503, "General."

31 U.S.C. §§ 1511-1519, "Apportionment."

31 U.S.C. § 1531, "Transfer of functions and activities."

31 U.S.C. § 3324, "Advances."

31 U.S.C. §§ 3511-3516, "Accounting Requirements, Systems, and Information."

31 U.S.C. § 3524, "Auditing expenditures approved without vouchers."

Government Accountability Office, "Principles of Federal Appropriations Law" (Red Book)

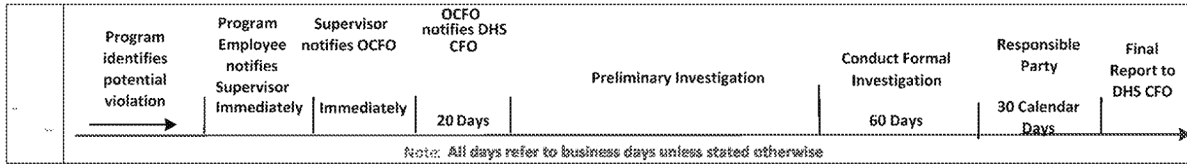
OMB Circular A-11, "Preparation, Submission, and Execution of the Budget."

References

Department of Homeland Security's Appropriations Acts applicable to expenditures of funds.

Department of Homeland Security's Budget Execution Guidance prepared by the Chief Financial Officer each fiscal year.

Appendix A: ADA Reporting Timeline



Glossary

The following tables contain acronyms and definition of terms used in this policy.

Acronym	Definition
ADA	Antideficiency Act
CFO	ICE Chief Financial Officer
DHS	Department of Homeland Security
DHS CFO	DHS Chief Financial Officer
DHS OGC	DHS Office of the General Counsel
DHS OIG	DHS Office of the Inspector General
ERO	Enforcement and Removal Operations
FMPM	Financial Management Policy Manual
HSI	Homeland Security Investigations
ICE	Immigration and Customs Enforcement
M&A	Management and Administration
OAC	ICE Office of Assurance and Compliance
OBPP	Office of Budget and Program Performance
OMB	Office of Management and Budget
OPLA	ICE Office of the Principal Legal Advisor
OPR	Office of Professional Responsibility

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Term	Definition
Administrative Division or Subdivision of Funds	Any distribution of an appropriation or fund, such as an apportionment or allotment, pursuant to the provisions of 31 U.S.C. § 1514(a).
Agency Limitations	For fund control purposes, an agency limitation is any administrative division or sub-division of funds made by agency officials that restricts the use of Government funds. These limitations are not subject to the provisions of the ADA unless they are at the apportionment, allotment, or sub-allotment level.
Allotment and Sub-allotment	Agency distribution of apportioned funds to key operating officials or agency heads who are authorized spending authority by the department. Where applicable, the allotment reflects special requirements associated with spending authority.
Apportionment	A plan, approved by OMB, to spend resources provided by one of the annual appropriations acts, a supplemental appropriations act, a continuing resolution, or a permanent law (mandatory appropriations). Resources are apportioned by Treasury Account Fund Symbol (TAFS). The apportionment identifies amounts available for obligation and expenditure. It specifies and limits the obligations that may be incurred and expenditures made (or makes other limitations, as appropriate) for specified time periods, programs, activities, projects, objects, or any combination thereof. An apportioned amount may be further subdivided by an agency into allotments, sub-allotments, and allocations.
Appropriation	A provision of law (not necessarily in an appropriations act) authorizing the expenditure of funds for a given purpose. Usually, but not always, an appropriation provides budget authority.
Closed or Canceled Accounts	Accounts with balances that have been canceled under 31 U.S.C. §§ 1552, 1555, or 1557. Once balances are canceled, the amounts are not available for obligation or expenditure for any purpose.
Commitment (Budget)	An administrative reservation of funds based on expectations of upcoming outlays.
Expenditure	Amounts paid by federal agencies, by cash or cash equivalents, during the fiscal year to liquidate a

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	government obligation.
Expired Accounts	Appropriation or fund accounts in which the balances no longer are available for incurring new obligations because the time available for incurring such obligations has expired.
Obligation	A legally binding agreement that will result in outlays, immediately or in the future, which creates a legal liability for the payment of goods and services ordered or received.
Reprogramming	Use of funds in an appropriation account for purposes other than those contemplated at the time of appropriation. Reprogramming is generally preceded by consultation between the federal agencies, OMB, and the appropriate Congressional committees. Reprogramming that meet the thresholds established in appropriations language involve formal notification to the appropriate Congressional committees.
Supplemental Appropriation	An act appropriating funds in addition to those in an annual appropriation act. Supplemental appropriations provide additional budget authority beyond the original estimates for programs or activities (including new programs authorized after the date of the original appropriation act) in cases where the need for funds is too urgent to be postponed until enactment of the regular appropriation bill. Supplementals may sometimes include items not appropriated in the regular bills for lack of timely authorization.
Transfer	A reduction in budgetary resources (budget authority and unobligated balances) in one account and an increase of them in another, by the same amount.